

# Florida Board of Medicine

Peabody Orlando  
9801 International Dr  
Orlando, FL 32819  
(407) 352-4000

November 30, 2012



## MEETING MINUTES

**Friday, November 30, 2012**

**7:03 a.m. ROLL CALL**

**Members Present:**

Jason J. Rosenberg, M.D., Chairman  
Z.P. Zachariah, M.D., Vice Chairman  
Nabil El Sanadi, M.D., 1<sup>st</sup> Vice Chairman  
Merle Stringer, M.D.  
Magdelina Averhoff, M.D.  
Donald Mullins, Consumer Member  
Bradley Levine, Consumer Member  
Brigitte Goersch, Consumer Member  
Oneila Lage, M.D.  
George Thomas, M.D.  
Elisabeth Tucker, M.D.  
Robert Nuss, M.D.  
Fred Bearison, M.D.  
James J. Orr, Jr., M.D.

**Members Absent:**

**Staff Present:**

Allison M. Dudley, J.D., Executive Director  
Ed Tellechea, Board Counsel  
Donna McNulty, Board Counsel  
Crystal A. Sanford, CPM, Program Operations Administrator  
Rebecca Hewett, Regulatory Specialist III  
Shaila Washington, Compliance Officer  
Ashley Carr, Public Information Officer

**Others Present:**

American Court Reporting  
  
Judy Rivenbark, M.D., Director, PRN

**Prosecuting Attorneys Present:**

Carol Greg, Esquire  
Diane Kiesling, Esquire  
Yolonda Green, Esquire

The Board members took a few moments to mourn the loss of defense counsel, Carol Lanfri.

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### Elections

A motion was made, seconded and carried unanimously to elect Dr. Orr as Vice Chairman. Dr. Orr accepted the position.

A motion was made, seconded and carried unanimously to elect Dr. Zachariah as Chairman. Dr. Zachariah accepted the position.

**Action taken:** Dr. Zachariah elected Chairman; Dr. Orr elected Vice Chairman

### Board Counsel's Remarks:

#### Fedeline Georges, M.D. vs. Board of Medicine .....59

Mr. Tellechea stated there was no update on this issue.

No action taken.

### Board Director's Remarks:.....No tab

Ms. Dudley advised the Board that Ms. Goersch had requested a fourth member be added to the probable cause panels (PCP). After discussion, the Board directed staff to work with Ms. Goersch to ensure three members are always present on the calls.

### Department Remarks:.....No tab

Jennifer Tschetter, General Counsel to the Department of Health, addressed the Board. She advised that Danny Hernandez, Esquire had been selected as Deputy General Counsel over the Prosecuting Services Unit. She also advised that Ms. Gregg was now Interim Medical Section Manager.

No action taken.

### Report Citizen Advocacy Center's (CAC) Annual Meeting .....60

Mr. Mullins provided a brief report of his attendance at the year's annual CAC meeting. He said it was an overall good opportunity.

No action taken.

### Delegations: .....65

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1 A motion was made, seconded and carried unanimously to approve the delegations as set forth in  
2 the agenda materials.

3  
4 **Action taken:** Delegations approved

5  
6 **Committee Reports:**

7 **Surgical Care/Quality Assurance Committee**

8 Dr. Orr provided the report for the meeting held November 29, 2012.

9  
10 A motion was made, seconded and carried unanimously to approve the report.

11  
12 **Action taken:** report approved

13  
14 **Credentials Committee Meeting**

15 Dr. Nuss provided the report for the meeting held November 29, 2012.

16  
17 A motion was made, seconded and carried unanimously to approve the report.

18  
19 Dr. Rosenberg thanked Ms. Sanford for stepping in and handling this Committee. The Board  
20 sent their best wishes for a speedy recovery for Ms. Prine.

21  
22 **Action taken:** report approved

23  
24 **Rules/Legislative Committee Meeting**

25 Mr. Tellechea provided the report for the meeting held November 29, 2012.

26  
27 A motion was made, seconded and carried unanimously to approve the report.

28  
29 **Action taken:** report approved

30  
31 **Communication, Education and Information Committee**

32 Ms. Goersch provided the report for the meeting held November 29, 2012.

33  
34 A motion was made, seconded and carried unanimously to approve the report.

35  
36 **Action taken:** report approved

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### Finance & Process Accountability

Mr. Mullins provided the report for the meeting held November 29, 2012.

A motion was made, seconded and carried unanimously to approve the report.

**Action taken:** report approved

### Dietetics-Nutrition/Electrology Committee Conference Call

Mr. Levine provided the report for the meeting held November 5, 2012.

A motion was made, seconded and carried unanimously to approve the report.

**Action taken:** report approved

### Council on Physician Assistants Meeting

Dr. El Sanadi provided the report for the meeting held November 29, 2012.

A motion was made, seconded and carried unanimously to approve the report.

**Action taken:** report approved

### Approval of Meeting Minutes:

#### October 12, 2012 Meeting .....61

A motion was made, seconded and carried unanimously to approve the minutes as written.

**Action taken:** minutes approved

#### Ratification of Applicants Pursuant to Chapter 458, FS.....62

A motion was made, seconded and carried unanimously to ratify the licenses.

**Action taken:** licenses ratified

### Voluntary Relinquishments:

#### Manuel Barbeite, M.D., Miami, FL .....48

Dr. Barbeite was not present nor was he represented by counsel.

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Mr. Levine was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine; s. 456.072(1)(ii), FS (2009) – Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program; and s. 456.072(1)(II), FS (2009) – Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Action taken:** license relinquished

**Juan Manuel Flores, M.D., Miami, FL .....49**

Dr. Flores was not present nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(ff), FS (2010) – With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered and s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Action taken:** license relinquished

**Manuel De Jesus Gainza, M.D., Wellington, FL .....50**

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## MEETING MINUTES

1 Case number 2010-06081

2 Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel.

3  
4 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS  
5 (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless  
6 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to  
7 the ability to practice medicine; s. 456.072(1)(x), FS (2009) – Failing to report to the board, or  
8 the department if there is no board, in writing within 30 days after the licensee has been  
9 convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a  
10 crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the  
11 enactment of this paragraph must be reported in writing to the board, or department if there is no  
12 board, on or before October 1, 1999 and s. 456.072(1)(w), FS (2009) – Failing to comply with  
13 the requirements for profiling and credentialing, including, but not limited to, failing to provide  
14 initial information, failing to timely provide updated information, or making misleading, untrue,  
15 deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure  
16 application.

17  
18 Case number 2010-24211

19 Dr. Stringer and Mr. Levine were recused due to participation on the probable cause panel.

20  
21 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS  
22 (2009-2010) – Violating any provision of this chapter or chapter 456, or any rules adopted  
23 pursuant thereto; s. 458.331(1)(q), FS (2009-2010) – Prescribing, dispensing, administering,  
24 mixing, or otherwise preparing a legend drug, including any controlled substance, other than in  
25 the course of the physician's professional practice. For the purposes of this paragraph, it shall be  
26 legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing  
27 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate  
28 quantities is not in the best interest of the patient and is not in the course of the physician's  
29 professional practice, without regard to his or her intent; s. 458.331(1)(m), FS (2009-2010) –  
30 Failing to keep legible, as defined by department rule in consultation with the board, medical  
31 records that identify the licensed physician or the physician extender and supervising physician  
32 by name and professional title who is or are responsible for rendering, ordering, supervising, or  
33 billing for each diagnostic or treatment procedure and that justify the course of treatment of the  
34 patient, including, but not limited to, patient histories; examination results; test results; records of  
35 drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s.  
36 458.331(1)(t), FS (2009-2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):

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1 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to  
2 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be  
3 construed to require more than one instance, event, or act. 2. Committing gross medical  
4 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person  
5 found by the board to have committed repeated medical malpractice based on s. 456.50 may not  
6 be licensed or continue to be licensed by this state to provide health care services as a medical  
7 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be  
8 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A  
9 recommended order by an administrative law judge or a final order of the board finding a  
10 violation under this paragraph shall specify whether the licensee was found to have committed  
11 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any  
12 combination thereof, and any publication by the board must so specify.

13  
14 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
15 of license.

16  
17 **Action taken:** license relinquished

18  
19 **Gloria Lopez, M.D., Orlando, FL & Duluth, MN .....51**

20 Dr. Lopez was not present nor was she represented by counsel.

21  
22 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

23  
24 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS  
25 (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise  
26 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,  
27 including its agencies or subdivisions; s. 458.331(1)(kk), FS (2011) – Failing to report to the  
28 board, in writing, within 30 days if action as defined in paragraph (b) has been taken against  
29 one’s license to practice medicine in another state, territory, or country; and s. 456.072(1)(w), FS  
30 (2011) – Failing to comply with the requirements for profiling and credentialing, including, but  
31 not limited to, failing to provide initial information, failing to timely provide updated  
32 information, or making misleading, untrue, deceptive, or fraudulent representations on a profile,  
33 credentialing, or initial or renewal licensure application.

34  
35 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
36 of license.

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**Action taken:** license relinquished

**Salem Mokhtar Habal, M.D., Ft. Lauderdale, FL .....52**

Dr. Habal was not present nor was he represented by counsel.

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Action taken:** license relinquished

**Lynn Averill, M.D., Pompano Beach, FL .....53**

Dr. Averill was not present nor was she represented by counsel.

Probable cause was waived in this case.

**Case number 2010-18332**

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(k), FS (2010) – Failing to perform any statutory or legal obligation placed upon a licensee. For purposes



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1 of this section, failing to repay a student loan issued or guaranteed by the state or the Federal  
2 Government in accordance with the terms of the loan or failing to comply with service  
3 scholarship obligations shall be considered a failure to perform a statutory or legal obligation,  
4 and the minimum disciplinary action imposed shall be a suspension of the license until new  
5 payment terms are agreed upon or the scholarship obligation is resumed, followed by probation  
6 for the duration of the student loan or remaining scholarship obligation period, and a fine equal  
7 to 10 percent of the defaulted loan amount; s. 458.331(1)(t), FS (2010) – Notwithstanding s.  
8 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s.  
9 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this  
10 paragraph. Medical malpractice shall not be construed to require more than one instance, event,  
11 or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice  
12 as defined in s. 456.50. A person found by the board to have committed repeated medical  
13 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
14 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
15 construed to require that a physician be incompetent to practice medicine in order to be  
16 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
17 final order of the board finding a violation under this paragraph shall specify whether the  
18 licensee was found to have committed “gross medical malpractice,” “repeated medical  
19 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the  
20 board must so specify; and s. 458.331(1)(q), FS (2010) – Prescribing, dispensing, administering,  
21 mixing, or otherwise preparing a legend drug, including any controlled substance, other than in  
22 the course of the physician’s professional practice. For the purposes of this paragraph, it shall be  
23 legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing  
24 legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate  
25 quantities is not in the best interest of the patient and is not in the course of the physician’s  
26 professional practice, without regard to his or her intent.

### Case number 2011-05256

29 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS  
30 (2010-2011) – Being unable to practice medicine with reasonable skill and safety to patients by  
31 reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as  
32 a result of any mental or physical condition.

### Case number 2010-14179

35 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS  
36 (2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical

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malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify and s. 458.331(1)(q), FS (2010) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent.

### Case number 2011-16381

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(s), FS (2010-2011) – Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition and s. 456.072(1)(hh), FS (2010-2011) – Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

A motion was made, seconded and carried unanimously to accept the voluntary relinquishment of license.

**Action taken:** license relinquished

**Mireille Lalanne, M.D., Boca Raton, FL & Nashville, TN .....54**

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1 Dr. Lalanne was not present nor was she represented by counsel.

2  
3 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

4  
5 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS  
6 (2009) – Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless  
7 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to  
8 the ability to practice medicine and s. 458.331(1)(b), FS (2009) – Having a license or the  
9 authority to practice medicine revoked, suspended, or otherwise acted against, including the  
10 denial of licensure, by the licensing authority of any jurisdiction, including its agencies or  
11 subdivisions.

12  
13 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
14 of license.

15  
16 **Action taken:** license relinquished

17  
18 **Michael Adam, P.A., Wilton, NY & Martinez, GA .....55**

19 Mr. Adam was not present nor was he represented by counsel.

20  
21 Dr. Stringer and Mr. Levine were recused due to participation on the probable cause panel.

22  
23 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS  
24 (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise  
25 acted against, including the denial of licensure, by the licensing authority of any jurisdiction,  
26 including its agencies or subdivisions; s. 458.331(1)(c), FS (2010) – Being convicted or found  
27 guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any  
28 jurisdiction which directly relates to the practice of medicine or to the ability to practice  
29 medicine; and s. 458.331(1)(kk), FS (2010) – Failing to report to the board, in writing, within 30  
30 days if action as defined in paragraph (b) has been taken against one's license to practice  
31 medicine in another state, territory, or country.

32  
33 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
34 of license.

35  
36 **Action taken:** license relinquished

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**Jeffrey Robert Perelman, M.D., Ft. Lauderdale & Boca Raton, FL.....56**

Dr. Perelman was not present nor was he represented by counsel.

**Case number 2011-10089**

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2011) – Failing to perform any statutory or legal obligation placed upon a licensed physician; s. 458.331(1)(q), FS (2011) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician’s professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician’s professional practice, without regard to his or her intent; s. 458.331(1)(t), FS (2011) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; and s. 458.331(1)(nn), FS (2011) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

**Case number 2011-14116**

Probable cause was waived in this case.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(c), FS (2011) - Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless

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1 of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to  
2 the ability to practice medicine.

### 3 4 Case number 2008-13844

5 No current members were recused due to participation on the probable cause panel.

6 Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(q), FS  
7 (2008) – Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug,  
8 including any controlled substance, other than in the course of the physician's professional  
9 practice. For the purposes of this paragraph, it shall be legally presumed that prescribing,  
10 dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled  
11 substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of  
12 the patient and is not in the course of the physician's professional practice, without regard to his  
13 or her intent; s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s.  
14 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give  
15 great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice  
16 shall not be construed to require more than one instance, event, or act. 2. Committing gross  
17 medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A  
18 person found by the board to have committed repeated medical malpractice based on s. 456.50  
19 may not be licensed or continue to be licensed by this state to provide health care services as a  
20 medical doctor in this state. Nothing in this paragraph shall be construed to require that a  
21 physician be incompetent to practice medicine in order to be disciplined pursuant to this  
22 paragraph. A recommended order by an administrative law judge or a final order of the board  
23 finding a violation under this paragraph shall specify whether the licensee was found to have  
24 committed “gross medical malpractice,” “repeated medical malpractice,” or “medical  
25 malpractice,” or any combination thereof, and any publication by the board must so specify; s.  
26 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules  
27 adopted pursuant thereto; and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined  
28 by department rule in consultation with the board, medical records that identify the licensed  
29 physician or the physician extender and supervising physician by name and professional title  
30 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or  
31 treatment procedure and that justify the course of treatment of the patient, including, but not  
32 limited to, patient histories; examination results; test results; records of drugs prescribed,  
33 dispensed, or administered; and reports of consultations and hospitalizations.

34  
35 A motion was made, seconded and carried unanimously to accept the voluntary relinquishment  
36 of license.

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**Action taken:** license relinquished

### **Board Chair's Remarks:**

Dr. Rosenberg thanked the other members for being able to serve as their Chairman. He stated he learned a great deal during this time.

He went on to thank the Committee Chair's for willing to serve and their accomplishments. He said under Dr. Nuss's leadership, the Credentials Committee is more efficient. He said Ms. Goersch was responsible for sharing information with licensees through the new Board Brief, designing the Board's own letterhead and new web site. He said Dr. Orr's contributed to patient safety by revising the pause rule and office surgery rules. And finally, Dr. Rosenberg thanked Mr. Mullins who would be known for his contributions that resulted in technological improvements that will affect future members.

Dr. Rosenberg thanked staff for their work under the leadership of Mr. McPherson, Ms. Tootle and the new Executive Director, Ms. Dudley. Dr. Rosenberg again thanked Ms. Sanford for stepping in and handling the Committees the previous day.

Dr. Rosenberg next thanked Mr. Tellechea and his team, Ms. McNulty and Ms. Murphy, stating they were the "best in the business". He thanked Mr. Tellechea for his support throughout the year.

And lastly, Dr. Rosenberg thanked the defense bar. He stated he learned a lot from them, including that cases are not one-sided.

Dr. Rosenberg acknowledged the members whose terms ended October 31<sup>st</sup>:

- Dr. Tucker
- Dr. Nuss
- Mr. Levine
- Mr. Mullins

Note: Dr. Rosenberg's term also ended October 31<sup>st</sup>.

He thanked these members and said he enjoyed the last four years with each of them.

### **Disciplinary Case Schedule:**

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## MEETING MINUTES

Ms. Dudley read the opening remarks and explained the types of hearings scheduled for the day.

Ms. Sanford read the Settlement Agreement list and determined which hearings would be heard by the Board.

### **Rachel Gittens, M.D., Ft. Lauderdale, FL & Freeport, NY – Settlement Agreement 2**

Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS (2010) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations and s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$6,000 fine, costs, Laws & Rules course, medical records course

### **John Gomez, M.D., Coral Springs, FL – Settlement Agreement .....4**

Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2009) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

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**Penalty imposed:** letter of concern, \$4,000 fine, costs, 5 hours CME in risk management, lecture

**Peter T. Pacik, M.D., Manchester & Dunbarton, NH – Settlement Agreement .....5**

Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions and s. 458.331(1)(kk), FS (2011) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws & Rules course

**Michael David Gross, P.A., Davenport, FL – Settlement Agreement .....7**

Dr. Zachariah was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2008) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

SA – letter of concern, \$2,000 fine, costs, 5 hours CME in medical recordkeeping

**Adamastor Alves Santos, P.A., Lady Lake & Belleview, FL – Settlement Agreement 8**

Dr. El Sanadi, Dr. Tucker and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(m), FS (2009) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories;

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1 examination results; test results; records of drugs prescribed, dispensed, or administered; and  
2 reports of consultations and hospitalizations.

3  
4 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

5  
6 **Penalty imposed:** letter of concern, \$1,500 fine, costs, 5 hours CME in medical recordkeeping

7  
8 **Joseph Michael Fugaro, M.D., Mexico, MO & Davenport, FL – Settlement Agreement 12**

9 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

10  
11 Allegations of the Administrative Complaint: Violation of Florida Statutes  
12 s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):  
13 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to  
14 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be  
15 construed to require more than one instance, event, or act. 2. Committing gross medical  
16 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person  
17 found by the board to have committed repeated medical malpractice based on s. 456.50 may not  
18 be licensed or continue to be licensed by this state to provide health care services as a medical  
19 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be  
20 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A  
21 recommended order by an administrative law judge or a final order of the board finding a  
22 violation under this paragraph shall specify whether the licensee was found to have committed  
23 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any  
24 combination thereof, and any publication by the board must so specify.

25  
26 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

27  
28 **Penalty imposed:** letter of concern, \$10,000 fine, costs, accepted completion of 13 month  
29 Surgical Critical Care Fellowship at University of Missouri in lieu of other penalties

30  
31 **Roland Manuel Gracia, M.D., Key Biscayne, FL – Settlement Agreement .....14**

32 Dr. Nuss and Ms. Goersch were recused due to participation on the probable cause panel.

33  
34 Allegations of the Administrative Complaint: Violation of Florida Statutes  
35 s. 456.072(1)(jj), FS (2011) – Failing to remit the sum owed to the state for an overpayment from  
36 the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

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A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$2,000 fine, costs

**Julio Prado, P.A., Pembroke Pines & Hialeah, FL – Settlement Agreement .....15**

Mr. Mullins was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes  
s. 458.331(1)(nn), FS (2008-2010) – Violating any provision of this chapter or chapter 456, or  
any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** reprimand, \$4,000 fine, costs, 5 hours CME in risk management

**Victor Errol De Loach, M.D., Madison, AL & Lithia, FL – Settlement Agreement 17**

Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes  
s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any  
rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$3,500 fine, costs, 5 hours CME in risk management, Laws  
& Rules course

**Jay Buford Bender, M.D., Alpharetta, GA – Settlement Agreement .....18**

Dr. Lage and Mr. Mullins were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes  
s. 458.331(1)(b), FS (2008) – Having a license or the authority to practice medicine revoked,  
suspended, or otherwise acted against, including the denial of licensure, by the licensing  
authority of any jurisdiction, including its agencies or subdivisions and s. 458.331(1)(kk), FS  
(2008) – Failing to report to the board, in writing, within 30 days if action as defined in

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paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** reprimand, \$5,000 fine, costs, Laws & Rules course, UF drug course, FMA medical records course

**Paul D. Lucey, M.D., Jacksonville, FL – Settlement Agreement .....19**

Dr. Zachariah and Ms. Goersch were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(aa), FS (2010) – Presigning blank prescription forms.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** reprimand, \$5,000 fine, costs, Laws & Rules course, QA assessment

**Ramy Salah Hanna, M.D., Titusville, FL – Settlement Agreement .....20**

Dr. Bearison was recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto and s. 456.072(1)(bb), FS (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** reprimand, \$5,000 fine, costs, 5 hours CME in risk management, lecture

**William John Gogan, M.D., Palm Beach, FL – Settlement Agreement .....21**

No current members were recused.

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1 Allegations of the Administrative Complaint: Violation of Florida Statutes  
2 s. 458.331(1)(m), FS (2003) – Failing to keep legible, as defined by department rule in  
3 consultation with the board, medical records that identify the licensed physician or the physician  
4 extender and supervising physician by name and professional title who is or are responsible for  
5 rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that  
6 justify the course of treatment of the patient, including, but not limited to, patient histories;  
7 examination results; test results; records of drugs prescribed, dispensed, or administered; and  
8 reports of consultations and hospitalizations; s. 458.331(1)(q), FS (2003) – Prescribing,  
9 dispensing, administering, mixing, or otherwise preparing a legend drug, including any  
10 controlled substance, other than in the course of the physician's professional practice. For the  
11 purposes of this paragraph, it shall be legally presumed that prescribing, dispensing,  
12 administering, mixing, or otherwise preparing legend drugs, including all controlled substances,  
13 inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient  
14 and is not in the course of the physician's professional practice, without regard to his or her  
15 intent; and s. 458.331(1)(t), FS (2003) – Gross or repeated malpractice or the failure to practice  
16 medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent  
17 similar physician as being acceptable under similar conditions and circumstances.

18  
19 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

20  
21 **Penalty imposed:** reprimand, \$10,000 fine, costs, Laws & Rules course, UF Drug course, FMA  
22 records course, QA assessment, Permanent restrictions – 1) may not prescribe any medication  
23 containing HGH; 2) may prescribe medications containing testosterone only in connection with  
24 treatment of osteoporosis; probation for two years with indirect supervision, 25% chart review  
25 triannually, 100% review of charts involving pain management, 100% review of charts where  
26 patient was prescribed testosterone; may prescribe controlled substances with the following  
27 restrictions: a) use sequentially numbered triplicate scripts, b) maintain copy in patient's file;  
28 first and last appearances

29  
30 **Romillo F. Marques, M.D., Naples, FL – Settlement Agreement .....27**

31 Dr. El Sanadi and Ms. Goersch were recused due to participation on the probable cause panel.

32  
33 Allegations of the Administrative Complaint: Violation of Florida Statutes  
34 s. 458.331(1)(t), FS (2006) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):  
35 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to  
36 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be

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1 construed to require more than one instance, event, or act. 2. Committing gross medical  
2 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person  
3 found by the board to have committed repeated medical malpractice based on s. 456.50 may not  
4 be licensed or continue to be licensed by this state to provide health care services as a medical  
5 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be  
6 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A  
7 recommended order by an administrative law judge or a final order of the board finding a  
8 violation under this paragraph shall specify whether the licensee was found to have committed  
9 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any  
10 combination thereof, and any publication by the board must so specify.

11  
12 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

13  
14 **Penalty imposed:** reprimand, \$6,000 fine, costs, 5 hrs CME in risk management

15  
16 **Miguel Milian, M.D., Miami, FL – Settlement Agreement .....28**  
17 Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel.

18  
19 Allegations of the Administrative Complaint: Violation of Florida Statutes  
20 s. 458.331(1)(t), FS (2010) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2):  
21 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to  
22 the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be  
23 construed to require more than one instance, event, or act. 2. Committing gross medical  
24 malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person  
25 found by the board to have committed repeated medical malpractice based on s. 456.50 may not  
26 be licensed or continue to be licensed by this state to provide health care services as a medical  
27 doctor in this state. Nothing in this paragraph shall be construed to require that a physician be  
28 incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A  
29 recommended order by an administrative law judge or a final order of the board finding a  
30 violation under this paragraph shall specify whether the licensee was found to have committed  
31 “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any  
32 combination thereof, and any publication by the board must so specify.

33  
34 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

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**Penalty imposed:** reprimand, \$7,000 fine, costs, 5 hrs CME in risk management, FMA records course, Permanent restriction: prohibited from performing cardiothoracic surgical procedures except as an assistant under direct supervision of a thoracic surgeon

### **Akram Abdel-Rahman Ismail, M.D., Leesburg, FL – Settlement Agreement .....29**

#### **Case number 2008-28051**

Dr. Lage and Mr. Levine were recused due to participation on the probable cause panel.

Allegations of the Administrative Complaint: Violation of Florida Statutes

s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations; s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require more than one instance, event, or act. 2. Committing gross medical malpractice. 3. Committing repeated medical malpractice as defined in s. 456.50. A person found by the board to have committed repeated medical malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to provide health care services as a medical doctor in this state. Nothing in this paragraph shall be construed to require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed “gross medical malpractice,” “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the board must so specify; and s. 456.072(1)(bb), FS (2008) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

#### **Case number 2009-20723**

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## MEETING MINUTES

1 Dr. Tucker, Dr. El Sanadi, Mr. Levine and Mr. Mullins were recused due to participation on the  
2 probable cause panel.

3  
4 Allegations of the Administrative Complaint: Violation of Florida Statutes  
5 s. 458.331(1)(s), FS (2009) – Being unable to practice medicine with reasonable skill and safety  
6 to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of  
7 material or as a result of any mental or physical condition; s. 456.072(1)(hh), FS (2009) – Being  
8 terminated from a treatment program for impaired practitioners, which is overseen by an  
9 impaired practitioner consultant as described in s. 456.076, for failure to comply, without good  
10 cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for  
11 not successfully completing any drug treatment or alcohol treatment program; and s.  
12 456.072(1)(c), FS (2009) – Being convicted or found guilty of, or entering a plea of guilty or  
13 nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the  
14 practice of, or the ability to practice, a licensee's profession.

15  
16 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

17  
18 **Penalty imposed:** reprimand, \$30,000 fine, costs, 5 hours CME in risk management, restriction  
19 – PRN, suspension until appears before the Board and demonstrates ability to practice with  
20 reasonable skill and safety including PRN evaluation and compliance; jurisdiction retained to  
21 impose additional terms

### 22 **Jeanette Perry, M.D., Boynton Beach & Highland Beach, FL – Settlement Agreement 30**

24 Dr. Bearison and Mr. Levine were recused due to participation on the probable cause panel.

25  
26 Allegations of the Administrative Complaint: Violation of Florida Statutes  
27 s. 458.331(1)(b), FS (2009) – Having a license or the authority to practice medicine revoked,  
28 suspended, or otherwise acted against, including the denial of licensure, by the licensing  
29 authority of any jurisdiction, including its agencies or subdivisions.

30  
31 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

32  
33 **Penalty imposed:** letter of concern, \$1,000 fine, costs

### 34 **Michael Lee Maynor, M.D., Folly Beach, SC – Settlement Agreement.....66**

35 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

36 Minutes prepared by Crystal Sanford

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Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions and s. 458.331(1)(kk), FS (2011) – Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$3,000 fine, costs, Laws & Rules course, indefinite suspension until appears before the Board and demonstrates his ability to practice with skill and safety including PRN evaluation and compliance and documents that all licenses are unencumbered; jurisdiction was retained to imposed additional terms

**Brett M. Iannuccillo, M.D., Ft. Lauderdale, FL – Settlement Agreement .....1**  
Dr. Iannuccillo was present and represented by Randolph Collette, Esquire.

Dr. Nuss and Mr. Mullins were recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2010) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and s. 458.331(1)(nn), FS (2010) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$10,000 fine, costs, 5 hours CME in risk management, lecture

**Susan Heleen Yandle, M.D., Jacksonville, FL – Settlement Agreement.....3**

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Dr. Yandle withdrew from the Settlement Agreement prior to the meeting.

**Action taken:** Settlement Agreement withdrawn

**Phuc V. Tran, M.D., Jacksonville & Orange Park, FL – Settlement Agreement .....6**

Dr. Tran was present and accompanied by Allen Grossman, Esquire.

Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

Ms. Green Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2011) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

A motion was made, seconded and carried with two opposed to reject the Settlement Agreement.

A motion was made and seconded to offer a counter proposal to impose a letter of concern, \$1,000 fine, costs, Laws and Rules course, and restriction on practice: May not prescribe, administer or dispense any drug to himself or his family unless and until:

1. he appears before the board and petitions to have restriction lifted
2. he demonstrates compliance with all other terms of the Final Order
3. he demonstrates all licenses are unencumbered

The motion carried unanimously.

The Respondent accepted the counter offer.

**Penalty imposed:** letter of concern, \$1,000 fine, costs, Laws and Rules course, and restriction on practice: May not prescribe, administer or dispense any drug to himself or his family unless and until: he appears before the board and petitions to have restriction lifted, he demonstrates compliance with all other terms of the Final Order, he demonstrates all licenses are unencumbered

**Amy Michelle Simons, P.A., Oxford & Fruitland Park, FL – Settlement Agreement 9**

Ms. Simons was present and represented by counsel.

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1 Dr. Bearison and Ms. Goersch were recused due to participation on the probable cause panel.

2  
3 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
4 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007) -  
5 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
6 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
7 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
8 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
9 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board  
10 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or  
11 continue to be licensed by this state to provide health care services as a medical doctor in this  
12 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
13 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
14 an administrative law judge or a final order of the board finding a violation under this paragraph  
15 shall specify whether the licensee was found to have committed "gross medical malpractice,"  
16 "repeated medical malpractice," or "medical malpractice," or any combination thereof, and any  
17 publication by the board must so specify.

18  
19 A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

20  
21 **Penalty imposed:** letter of concern, \$2,500 fine, costs, 5 hours CME in urology

22  
23 **Carlos M. Ramirez-Calderon, M.D., Miami, FL – Settlement Agreement .....11**

24 Dr. Ramirez-Calderon was present and represented by Brian Newman, Esquire.

25  
26 Dr. Stringer and Mr. Levine were recused due to participation on the probable cause panel. Dr.  
27 Averhoff advised she knows the Respondent but could be objective in her voting and did not  
28 recuse herself.

29  
30 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
31 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2008) –  
32 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
33 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
34 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
35 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
36 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board

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1 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or  
2 continue to be licensed by this state to provide health care services as a medical doctor in this  
3 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
4 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
5 an administrative law judge or a final order of the board finding a violation under this paragraph  
6 shall specify whether the licensee was found to have committed “gross medical malpractice,”  
7 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any  
8 publication by the board must so specify.

9  
10 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

11  
12 A motion was made and seconded to offer a counter proposal to impose the same terms but to  
13 require a one hour lecture on management of encephalitis. The motion carried unanimously.

14  
15 The Respondent took a few minutes to decide if he should accept or reject the counter offer.

16  
17 **Rafael Luis Nogues, M.D., Miami, FL – Settlement Agreement .....13**  
18 Dr. Nogues was present and represented by Randolph Collette, Esquire.

19  
20 Mr. Levine was recused due to participation on the probable cause panel.

21  
22 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
23 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2006) –  
24 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
25 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
26 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
27 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
28 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board  
29 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or  
30 continue to be licensed by this state to provide health care services as a medical doctor in this  
31 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
32 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
33 an administrative law judge or a final order of the board finding a violation under this paragraph  
34 shall specify whether the licensee was found to have committed “gross medical malpractice,”  
35 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any  
36 publication by the board must so specify.

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## MEETING MINUTES

1  
2 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

3  
4 A motion was made and seconded to dismiss the Administrative Complaint.

5  
6 The Respondent agreed to waive attorney fees and costs.

7  
8 The motion carried unanimously.

9  
10 **Action taken:** Administrative Complaint dismissed

11  
12 **Revisit Carlos M. Ramirez-Calderon, M.D., Miami, FL – Settlement Agreement ..11**

13 Mr. Newman advised his client accepted the counter offer.

14  
15 **Penalty imposed:** letter of concern, \$5,000 fine, costs, 5 hours CME in risk management, 1 hour  
16 lecture on management of encephalitis

17  
18 **Curtis Lee Beauregard, M.D., Chesterfield, MO & Alexandria, LA – Hearing Not**  
19 **Involving Disputed Issues of Material Fact .....38**

20 Dr. Beauregard was present and represented by Josh Bloom, Esquire. Dr. Rivenbark was also  
21 present.

22  
23 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel. Dr.  
24 Rosenberg advised he knows the Respondent but could be objective in voting and did not recuse  
25 himself.

26  
27 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2011) – Having a  
29 license or the authority to practice medicine revoked, suspended, or otherwise acted against,  
30 including the denial of licensure, by the licensing authority of any jurisdiction, including its  
31 agencies or subdivisions.

32  
33 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

34  
35 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

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## MEETING MINUTES

1 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
2 Statutes as charged in the Administrative Complaint.

3  
4 A motion was made, seconded and carried unanimously to impose a letter of concern, \$2,500  
5 fine, costs, probation for five years under indirect supervision with 25% chart review, triannual  
6 reports and appearances.

7  
8 A motion was made, seconded and carried unanimously to assess costs in the amount of \$311.14.

9  
10 **Penalty imposed:** letter of concern, \$2,500 fine, \$311.14 costs, probation for five years under  
11 indirect supervision with 25% chart review, triannual reports and appearances

12  
13 **Douglas Flynn Martin, M.D., Boca Raton, FL – Settlement Agreement .....16**

14 Dr. Martin was present and represented by Allen Grossman, Esquire.

15  
16 Mr. Mullins was recused due to participation on the probable cause panel.

17  
18 Ms. Green represented the Department and presented the case to the Board. Allegations of the  
19 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(aa), FS (2005) –  
20 Performing or attempting to perform health care services on the wrong patient, a wrong-site  
21 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically  
22 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the  
23 purposes of this paragraph, performing or attempting to perform health care services includes the  
24 preparation of the patient.

25  
26 A motion was made and seconded to dismiss the Administrative Complaint.

27  
28 The Respondent agreed to waive attorney fees and costs.

29  
30 The motion carried unanimously.

31  
32 **Action taken:** Administrative Complaint dismissed

33  
34 **Barry L. Migicovsky, M.D., Hollywood, FL – Recommended Order .....35**

35 Dr. Migicovsky was present and represented by Brian Newman, Esquire.

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## **MEETING MINUTES**

1 Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

2  
3 Dr. Rosenberg read the Recommended Order Remarks and confirmed all participating members  
4 had read the complete record.

5  
6 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
7 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2010) –  
8 Performing or attempting to perform health care services on the wrong patient, a wrong-site  
9 procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically  
10 unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the  
11 purposes of this paragraph, performing or attempting to perform health care services includes the  
12 preparation of the patient.

13  
14 A motion was made and seconded to accept the Respondent's first exception to paragraph 10 of  
15 the Recommended Order. However, the motion later failed.

16  
17 A motion was made, seconded and carried unanimously to reject the Respondent's first  
18 exception on the grounds stated by Ms. Kiesling.

19  
20 A motion was made, seconded and carried unanimously to reject the Respondent's second  
21 exception on the grounds stated by Ms. Kiesling.

22  
23 A motion was made, seconded and carried with one opposed to reject the Respondent's third  
24 exception to paragraph 12 of the Recommended Order on the grounds stated by Ms. Kiesling.

25  
26 A motion was made, seconded and carried with one opposed to reject the Respondent's fourth  
27 exception to paragraph 16 of the Recommended Order on the ground stated by Ms. Kiesling.

28  
29 A motion was made, seconded and carried with one opposed to reject the Respondent's fifth  
30 exception to paragraph 17 of the Recommended Order on the ground stated by Ms. Kiesling.

31  
32 A motion was made, seconded and carried with one opposed to reject the Respondent's sixth  
33 exception to paragraph 22 and footnote 6 of the Recommended Order on the ground stated by  
34 Ms. Kiesling.

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## MEETING MINUTES

1 A motion was made, seconded and carried unanimously to reject the Respondent's seventh  
2 exception to paragraphs 23-26 of the Recommended Order on the ground stated by Ms. Kiesling.

3  
4 A motion was made was made and seconded to reject the Respondent's eighth exception to the  
5 penalty of the Recommended Order on the ground stated by Ms. Kiesling.

6  
7 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

8  
9 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

10  
11 The motion on Respondent's eighth exception passed unanimously.

12  
13 A motion was made, seconded and carried 8-5 to adopt the Recommended Order.

14  
15 A motion was made, seconded and carried unanimously to bifurcate the costs and retain  
16 jurisdiction to impose costs at a later date.

17  
18 **Penalty imposed:** letter of concern, \$750 fine, 5 hrs CME in risk management, attend 1-hour  
19 lecture

20  
21 **Gilbert Shapiro, M.D., Key West, FL – Settlement Agreement .....22**

22 Dr. Shapiro was present and represented by Richard Brooderson, Esquire.

23  
24 Dr. Stringer and Ms. Goersch were recused due to participation on the probable cause panel.

25  
26  
27 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
28 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2009-2011) –  
29 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
30 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
31 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
32 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
33 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board  
to have committed repeated medical malpractice based on s. 456.50 may not be licensed or

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## **MEETING MINUTES**

1 continue to be licensed by this state to provide health care services as a medical doctor in this  
2 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
3 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
4 an administrative law judge or a final order of the board finding a violation under this paragraph  
5 shall specify whether the licensee was found to have committed “gross medical malpractice,”  
6 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any  
7 publication by the board must so specify; s. 458.331(1)(nn), FS (2010-2011) – Violating any  
8 provision of this chapter or chapter 456, or any rules adopted pursuant thereto; s. 458.331(1)(m),  
9 FS (2009-2011) – Failing to keep legible, as defined by department rule in consultation with the  
10 board, medical records that identify the licensed physician or the physician extender and  
11 supervising physician by name and professional title who is or are responsible for rendering,  
12 ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the  
13 course of treatment of the patient, including, but not limited to, patient histories; examination  
14 results; test results; records of drugs prescribed, dispensed, or administered; and reports of  
15 consultations and hospitalizations.

16 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.

17  
18 A motion was made and seconded to offer a counter proposal to impose the same terms but to  
19 include a six month stayed suspension.  
20

21  
22 Mr. Tellechea asked the member who made the motion to consider amending the probation  
23 language to require the Respondent petition for early termination after one year of probation.  
24 This was accepted.  
25

26 An amendment was offered to revoke the Respondent’s license. This amendment was rejected.

27  
28 Another amendment was offered to require a 1 year suspension. This amendment was also  
29 rejected.  
30



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1 Another amendment was offered to remove the stay from the six months suspension. This  
2 amendment was accepted.

3  
4 Another amendment was offered to place a restriction on the Respondent in that he is prohibited  
5 from prescribing Schedule II and III controlled substances. This amendment was also accepted.

6  
7 Another amendment was offered to impose the actual costs of \$17,824.87. This amendment was  
8 also accepted.

9  
10 An unfriendly amendment was offered to revoke the Respondent's license. This amendment was  
11 rejected.

12  
13 After discussion, the Board made a motion, seconded it and carried it unanimously to reconsider  
14 the previous motions.

15  
16 A motion was made and seconded to counter offer with the same terms of the original Settlement  
17 Agreement, a permanent restriction on prescribing Schedule II-III controlled substances, impose  
18 a six month suspension and to remove the probation requirement.

19  
20 An amendment was offered to add two years probation, but this amendment was later withdrawn.

21  
22 The motion carried unanimously.

23  
24 The Respondent took seven days to accept or reject the counter offer.

25  
26 **Action taken:** Settlement Agreement rejected; counter offer to impose reprimand, \$20,000 fine,  
27 costs, UF drug course, FMA records course, QA assessment, Restrictions – 1) may not treat  
28 patients for chronic non-malignant pain; 2) may not own, operate or practice in a PMC, 6-month  
29 suspension; permanently restricted from prescribing Schedule II-III controlled substances

30  
31 **Thomas James Rodenberg, M.D., Knoxville, TN & Pompano Beach, FL – Settlement**  
32 **Agreement .....23**

33 Dr. Rodenberg was not present nor was he represented by counsel.

34  
35 The patient's family was represented by Bonnie Navin, Esquire.

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## MEETING MINUTES

1 Mr. Mullins was recused due to participation on the probable cause panel.

2  
3 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
4 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2007-2008) –  
5 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
6 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
7 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
8 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
9 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board  
10 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or  
11 continue to be licensed by this state to provide health care services as a medical doctor in this  
12 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
13 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
14 an administrative law judge or a final order of the board finding a violation under this paragraph  
15 shall specify whether the licensee was found to have committed “gross medical malpractice,”  
16 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any  
17 publication by the board must so specify; s. 458.331(1)(k), FS (2008) – Making deceptive,  
18 untrue, or fraudulent representations in or related to the practice of medicine or employing a trick  
19 or scheme in the practice of medicine; and s. 458.331(1)(m), FS (2007-2008) – Failing to keep  
20 legible, as defined by department rule in consultation with the board, medical records that  
21 identify the licensed physician or the physician extender and supervising physician by name and  
22 professional title who is or are responsible for rendering, ordering, supervising, or billing for  
23 each diagnostic or treatment procedure and that justify the course of treatment of the patient,  
24 including, but not limited to, patient histories; examination results; test results; records of drugs  
25 prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

26  
27 A motion was made, seconded and carried with one opposed to accept the Settlement  
28 Agreement.

29  
30 **Penalty imposed:** reprimand, \$40,000 fine, costs, FMA records course, 5 hours CME in risk  
31 management, UF CARES evaluation, suspended for minimum of six months and until he appears  
32 before the Probation Committee for reinstatement with his evaluation and he demonstrates that  
33 he can practice with skills and safety; jurisdiction retained to impose additional terms  
34

35 **Charles D. Scarborough, M.D., Macclenny, FL – Settlement Agreement .....24**

36 Dr. Scarborough withdrew from his Settlement Agreement prior to the meeting.

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## MEETING MINUTES

1  
2 **Action taken:** Settlement Agreement withdraw

3  
4 **Basim Ibrahim Elhabashy, M.D., Delray Beach, FL – Settlement Agreement .....25**

5 Dr. Elhabashy was present and represented by Jerome Silverberg, Esquire.

6  
7 Dr. Stringer and Mr. Levine were recused due to participation on the probable cause panel.

8  
9 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
10 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(t), FS (2011) –  
11 Notwithstanding s. 456.072(2) but as specified in s. 456.50(2): 1. Committing medical  
12 malpractice as defined in s. 456.50. The board shall give great weight to the provisions of s.  
13 766.102 when enforcing this paragraph. Medical malpractice shall not be construed to require  
14 more than one instance, event, or act. 2. Committing gross medical malpractice. 3.  
15 Committing repeated medical malpractice as defined in s. 456.50. A person found by the board  
16 to have committed repeated medical malpractice based on s. 456.50 may not be licensed or  
17 continue to be licensed by this state to provide health care services as a medical doctor in this  
18 state. Nothing in this paragraph shall be construed to require that a physician be incompetent to  
19 practice medicine in order to be disciplined pursuant to this paragraph. A recommended order by  
20 an administrative law judge or a final order of the board finding a violation under this paragraph  
21 shall specify whether the licensee was found to have committed “gross medical malpractice,”  
22 “repeated medical malpractice,” or “medical malpractice,” or any combination thereof, and any  
23 publication by the board must so specify; s. 458.331(1)(q), FS (2011) – Prescribing, dispensing,  
24 administering, mixing, or otherwise preparing a legend drug, including any controlled substance,  
25 other than in the course of the physician’s professional practice. For the purposes of this  
26 paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or  
27 otherwise preparing legend drugs, including all controlled substances, inappropriately or in  
28 excessive or inappropriate quantities is not in the best interest of the patient and is not in the  
29 course of the physician’s professional practice, without regard to his or her intent; and s.  
30 458.331(1)(nn), FS (2011) – Violating any provision of this chapter or chapter 456, or any rules  
31 adopted pursuant thereto.

32  
33 A motion was made, seconded and carried with one opposed to accept the Settlement  
34 Agreement.  
35

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## MEETING MINUTES

The Board discussed his proposed monitor and advised him to find one in his same specialty area.

**Penalty imposed:** reprimand, \$15,000 fine, costs, UF drug course, FMA records course, limitations on license: 1) no prescribing of Schedule II controlled substances unless and until he appears and demonstrates his ability to do so including Risk Management review and compliance; 2) prohibited from practicing in, managing or owning a PMC; probation for one year with indirect supervision for anesthesia and addiction medicine practice; 25% review, quarterly reports, first and last appearances; prescribing restrictions on Scheduled III-V controlled substances: 1) use sequentially numbered, triplicate prescriptions, 2) one copy to monitor, 3) one copy to DOH investigator, 4) one copy to patients medical record, 5) may only prescribe Suboxone in compliance with these restrictions for addiction medicine practice; relinquish DEA license for Schedule II controlled substances for one year and unless and until he appears and demonstrates his ability to do so

### **Robert Nucci, M.D., Tampa, FL – Settlement Agreement .....31**

Dr. Nucci was present and represented by Kevin Napper, Esquire.

Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(bb), FS (2008) – Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient and 2 counts of s. 458.331(1)(nn), FS (2008) – Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

A motion was made, seconded and carried unanimously to accept the Settlement Agreement.

**Penalty imposed:** letter of concern, \$5,000 fine, costs, FMA records course; Counts one and three are dismissed; count 2 is amended

### **Mitzi Carol Brock, M.D., Jacksonville, FL – Settlement Agreement .....26**

Dr. Brock was present and represented by John Saalfeld, Esquire.

Minutes prepared by Crystal Sanford

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## **MEETING MINUTES**

1  
2 Dr. Orr and Ms. Goersch were recused due to participation on the probable cause panel.  
3

4 The Department presented the case to the Board. Allegations of the Administrative Complaint:  
5 Violation of Florida Statutes s. 458.331(1)(t), FS (2008) – Notwithstanding s. 456.072(2) but as  
6 specified in s. 456.50(2): 1. Committing medical malpractice as defined in s. 456.50. The board  
7 shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. Medical  
8 malpractice shall not be construed to require more than one instance, event, or act. 2.  
9 Committing gross medical malpractice. 3. Committing repeated medical malpractice as  
10 defined in s. 456.50. A person found by the board to have committed repeated medical  
11 malpractice based on s. 456.50 may not be licensed or continue to be licensed by this state to  
12 provide health care services as a medical doctor in this state. Nothing in this paragraph shall be  
13 construed to require that a physician be incompetent to practice medicine in order to be  
14 disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a  
15 final order of the board finding a violation under this paragraph shall specify whether the  
16 licensee was found to have committed “gross medical malpractice,” “repeated medical  
17 malpractice,” or “medical malpractice,” or any combination thereof, and any publication by the  
18 board must so specify and s. 458.331(1)(m), FS (2008) – Failing to keep legible, as defined by  
19 department rule in consultation with the board, medical records that identify the licensed  
20 physician or the physician extender and supervising physician by name and professional title  
21 who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or  
22 treatment procedure and that justify the course of treatment of the patient, including, but not  
23 limited to, patient histories; examination results; test results; records of drugs prescribed,  
24 dispensed, or administered; and reports of consultations and hospitalizations.  
25

26 A motion was made, seconded and carried unanimously to reject the Settlement Agreement.  
27

28 A motion was made and seconded to offer a counter proposal to impose a letter of concern,  
29 \$7,500 fine, costs, medical records course, 5 hours CME in risk management, 5 hours CME in  
30 operative vaginal delivery.  
31

32 An amendment was offered to impose a reprimand instead of a letter of concern. This  
33 amendment was rejected.  
34

35 The motion carried unanimously.  
36

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## MEETING MINUTES

1 The Respondent accepted the counter offer.

2  
3 **Penalty imposed:** letter of concern, \$7,500 fine, costs, medical records course, 5 hours CME in  
4 risk management, 5 hours CME in operative vaginal delivery

5  
6 **Neelam Taneja Uppal, M.D., St. Petersburg, FL – Recommended Order .....32**

7 Dr. Uppal was present and represented by George Indest, III, Esquire.

8  
9 No current members were recused.

10  
11 Dr. Rosenberg confirmed all participating members had read the complete record.

12  
13 Ms. Green represented the Department and presented the case to the Board. Allegations of the  
14 Amended Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2006) –  
15 Failing to perform any statutory or legal obligation placed upon a licensed physician.

16  
17 A motion was made, seconded and carried unanimously to reject the Respondent's first  
18 exception to paragraph 17 of the Recommended Order on the grounds as stated by the  
19 Department's and because there is substantial evidence in the record.

20  
21 A motion was made, seconded and carried unanimously to reject the Respondent's second  
22 exception on the grounds as stated by the Department.

23  
24 A motion was made, seconded and carried unanimously to reject the Respondent's third  
25 exception on the grounds as stated by the Department.

26  
27 A motion was made, seconded and carried unanimously to reject the Respondent's fourth  
28 exception on the grounds as stated by the Department.

29  
30 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

31  
32 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

33  
34 A motion was made, seconded and carried unanimously to reject the Respondent's fifth  
35 exception on the grounds as stated by the Department.

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## MEETING MINUTES

1 A motion was made, seconded and carried unanimously to accept the Recommended Order.

2  
3 A motion was made, seconded and carried unanimously to bifurcate the costs and retain  
4 jurisdiction to impose costs at a later date.

5  
6 **Penalty imposed:** letter of concern, \$1,000 fine;

7  
8 **Michael Morgan Dietch, M.D., Port Orange & South Daytona, FL – Hearing Not Involving**  
9 **Disputed Issues of Material Fact .....33**

10 Dr. Dietch was present and represented by William R. Taylor, Esquire.

11  
12 Dr. Tucker, Dr. Stringer, Mr. Levine and Mr. Mullins were recused due to participation on the  
13 probable cause panel.

14  
15 Ms. Green represented the Department and presented the case to the Board. Allegations of the  
16 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(nn), FS (2010) – Violating  
17 any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

18  
19 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

20  
21 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

22  
23 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
24 Statutes as charged in the Administrative Complaint.

25  
26 A motion was made and seconded to impose a letter of concern, require the Respondent to  
27 produce the medical record to the patient, \$5,000 fine and the Laws and Rules course.

28  
29 An amendment was offered to allow the fine be paid within 90 days. This amendment was  
30 accepted.

31  
32 The motion carried unanimously.

33  
34 A motion was made, seconded and carried unanimously to assess costs in the amount of  
35 \$6,477.85 due within 90 days.

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## MEETING MINUTES

**Penalty imposed:** letter of concern, require the Respondent to produce the medical record to the patient, \$5,000 fine, \$6,477.85 costs, Laws and Rules course

**Kenneth Forbes Hill, M.D., Union, SC – Hearing Not Involving Disputed Issues of Material Fact .....34**

Dr. Hill was present and represented by Philip Sprinkle, Esquire.

Dr. Bearison was recused due to participation on the probable cause panel.

Ms. Gregg represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(b), FS (2010) – Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions.

A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

A motion was made, seconded and carried unanimously to find the Respondent violated Florida Statutes as charged in the Administrative Complaint.

A motion was made and seconded to impose a letter of concern, \$3,000 fine, suspension until his Virginia license is unencumbered and the Board retains jurisdiction to impose additional terms. The motion carried unanimously.

A motion was made and seconded to assess costs in the amount of \$3,130.44.

An amendment was offered to allow the costs be paid within one year of reinstatement. This amendment was accepted.

The motion carried unanimously.

**Penalty imposed:** letter of concern, \$3,000 fine, \$3,130.44 costs, suspension until his Virginia license is unencumbered and the Board retains jurisdiction to impose additional terms



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## MEETING MINUTES

1 **Selwyn Carrington, M.D., Miami, FL – Hearing Not Involving Disputed Issues of**  
2 **Material Fact .....37**

3 Dr. Carrington was not present nor was he represented by counsel.  
4

5 Dr. El Sanadi was recused due to participation on the probable cause panel.  
6

7 Ms. Green represented the Department and presented the case to the Board. Allegations of the  
8 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(c), FS (2011) – Being  
9 convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of  
10 adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice,  
11 a licensee's profession.  
12

13 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.  
14

15 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.  
16

17 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
18 Statutes as charged in the Administrative Complaint.  
19

20 A motion was made, seconded and carried unanimously to revoke the Respondent's license.  
21

22 A motion was made, seconded and carried unanimously to assess costs in the amount of  
23 \$1,458.44.  
24

25 **Penalty imposed:** revocation, \$1,458.44 costs  
26

27 **George Farhat, M.D., Clearwater, FL – Recommended Order .....39**

28 Dr. Farhat was present and represented by Gregory K. Showers, Esquire.  
29

30 Dr. Thomas and Mr. Levine were recused due to participation on the probable cause panel.  
31

32 Dr. Rosenberg read the Recommended Order remarks and confirmed all participating members  
33 had read the complete record.  
34

35 Ms. Gregg represented the Department and presented the case to the Board. Allegations of the  
36 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(hh), FS (2009) – Being

Minutes prepared by Crystal Sanford

Peabody Orlando  
9801 International Dr  
Orlando, FL 32819  
(407) 352-4000

November 30, 2012



## MEETING MINUTES

1 terminated from a treatment program for impaired practitioners, which is overseen by an  
2 impaired practitioner consultant as described in s. 456.076, for failure to comply, without good  
3 cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for  
4 not successfully completing any drug treatment or alcohol treatment program.

5  
6 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

7  
8 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

9  
10 A motion was made, seconded and carried unanimously to accept the Recommended Order.

11  
12 A motion was made, seconded and carried unanimously to bifurcate costs and retain jurisdiction  
13 to impose costs at a later date.

14  
15 **Penalty imposed:** suspension until he complies with his monitoring contract and demonstrates to  
16 the Board his ability to practice with reasonable skill and safety, probation upon reinstatement  
17 with terms to be set by the Board, \$2,000 fine

18  
19 **Kenneth Paul Manselle, P.A., Sarasota & Orlando, FL – Hearing Not Involving**  
20 **Disputed Issues of Material Fact .....40**

21 Mr. Manselle was present but not represented by counsel.

22  
23 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

24  
25 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
26 Administrative Complaint: Violation of Florida Statutes s. 456.072(1)(q), FS (2009-2010) –  
27 Violating a lawful order of the department or the board, or failing to comply with a lawfully  
28 issued subpoena of the department.

29  
30 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

31  
32 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

33  
34 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
35 Statutes as charged in the Administrative Complaint.

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1 A motion was made and seconded to impose a suspension until he undergoes a PRN evaluation.  
2 This motion was later withdrawn.

3  
4 A motion was made and seconded to impose a reprimand and to suspend his license until he  
5 complies with his previous Final Order. The motion carried unanimously.

6  
7 A motion was made, seconded and carried unanimously to waive costs in this case.

8  
9 **Penalty imposed:** reprimand; suspension until he complies with his previous Final Order

10  
11 **Michael Dimayuga, M.D., Ormond Beach, FL – Motion for Determination of Waiver 41**

12 Dr. Dimayuga was not present nor was he represented by counsel.

13  
14 **Case number 2011-19605**

15 Dr. Zachariah was recused due to participation on the probable cause panel.

16  
17 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
18 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2011) – Failing to  
19 perform any statutory or legal obligation placed upon a licensed physician.

20  
21 **Case number 2011-00713**

22 Dr. El Sanadi and Mr. Levine were recused due to participation on the probable cause panel.

23  
24 Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the  
25 Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2010) – Failing to  
26 perform any statutory or legal obligation placed upon a licensed physician.

27  
28 A motion was made, seconded and carried unanimously to find the Respondent has waived his  
29 right to a hearing and to grant the Department's Motion for Determination of Waiver.

30  
31 A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

32  
33 A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

34  
35 A motion was made, seconded and carried unanimously to find the Respondent violated Florida  
36 Statutes as charged in the Administrative Complaint.

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A motion was made, seconded and carried unanimously to impose a reprimand, \$6,000 fine, Laws and Rules course, five hours CME in ethics, require him to provide the medical records to the patients within 30 days, and advise him to follow the proper procedures for change of address and publication of his office closure.

**Carlos Oliverio Ruiz, P.A., Miami, FL – Motion for Determination of Waiver .....42**

Mr. Ruiz was not present nor was he represented by counsel.

Dr. Tucker and Mr. Mullins were recused due to participation on the probable cause panel.

Ms. Kiesling represented the Department and presented the case to the Board. Allegations of the Administrative Complaint: Violation of Florida Statutes s. 458.331(1)(g), FS (2010) – Failing to perform any statutory or legal obligation placed upon a licensed physician.

A motion was made, seconded and carried unanimously to find the Respondent has waived his right to a hearing and to grant the Department's Motion for Determination of Waiver.

A motion was made, seconded and carried unanimously to adopt the Findings of Fact.

A motion was made, seconded and carried unanimously to adopt the Conclusions of Law.

A motion was made, seconded and carried unanimously to find the Respondent violated Florida Statutes as charged in the Administrative Complaint.

A motion was made, seconded and carried unanimously to impose \$5,000 fine and suspension until all terms of the previous Final Order have been met.

A motion was made, seconded and carried unanimously to assess costs at \$103.42.

**Penalty imposed:** \$5,000 fine, \$103.42 costs, suspension until all terms of the previous Final Order have been met.

Ms. Goersch left the meeting at 1:23 p.m.

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State Surgeon General John Armstrong, M.D., addressed the Board. He thanked Dr. Rosenberg for his leadership and the remaining four members who terms concluded on October 31<sup>st</sup>. He said the Board has set a new precedent for how a Board should conduct their business and he intends to spread this process to the other Boards.

Dr. Armstrong congratulated Dr. Zachariah and Dr. Orr for being elected to their new positions on the Board. He also congratulated Ms. Dudley for being selected as the new Executive Director.

He again thanked the Board for their high level of collaboration and partnering to ensure patient safety.

### **Final Order Compliance Issues:**

#### **Nedra Clem Jackson, M.D. – Request for Reconsideration and Modification of Final Order .....68**

Dr. Nedra was present and represented by William Dillon, Esquire.

Dr. Tucker recused herself from voting because she knows the Respondent's attorney.

After discussion, a motion was made, seconded and carried unanimously to deny the petition.

**Action taken:** petition denied

### **AHCA Exemptions:**

#### **Sara Vizcay, M.D. ....43**

Dr. Vizcay was not present nor was she represented by counsel.

A motion was made, seconded and carried unanimously to deny the request for exemption.

**Action taken:** request for exemption denied

#### **Jack Redding, P.A. ....63**

Mr. Redding was present, but not represented by counsel.

A motion was made, seconded and carried unanimously to grant the request for exemption.

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**Action taken:** exemption granted

**John Nees, M.D. ....67**

Dr. Nees was not present, but he was represented by Jon Pellett, Esquire.

A motion was made, seconded and carried unanimously to grant the request for exemption.

**Action taken:** exemption granted

**Petitions for Declaratory Statement:**

**Richard Ombres, M.D. RE: s. 458.3485, FS & Rule 64B8-9.014, FAC .....44**

Dr. Shugarman advised Dr. Ombres had subsequently passed away since submitting his request.

No action taken.

**Stephen Haire, M.D. RE: Rule 64B8-9.014, FAC .....45**

Dr. Haire was present and accompanied by Chris Griffin, Esquire.

Mr. Tellechea advised this rule prohibits prescribing as outlined in Dr. Haire's petition. He advised this should be a petition for rulemaking because there is no statute or rule that addresses the situation outlined in the petition.

After additional discussion, Dr. Haire withdrew his petition.

**Action taken:** petition withdrawn

**John Cottam, M.D., PA RE: Rule 64B8-9.014, FAC .....64**

Dr. Cottam was present but not represented by counsel.

Mr. Tellechea advised the situation outlined in his petition is not a violation of the rule.

Steven Rosenberg, M.D., representing the Florida Society of Dermatology and Dermatologic Surgery, addressed the Board.

After discussion, a motion was made and seconded to deny the petition.

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Dr. Cottam withdrew his petition.

**Action taken:** petition withdrawn

**Pariksith Singh, M.D. & Maria Grace Scunziano-Singh, M.D. RE: s. 456.053(3)(d), F.S.**  
**46**

Neither Drs. Singh nor Dr. Scunziano-Singh was present. However, they were represented by Lester Perling, Esquire.

A motion was made and seconded to deny the petition because the type of agreement outlined in the petition is not allowed under the Patient self Referral Act.

Mr. Perling withdrew the petition.

**Action taken:** petition withdrawn

**Michael Mozzetti, M.D. – Draft Final Order RE: Rule 64B8-9.0131, FAC .....68**  
Dr. Mozzetti was not required to attend this meeting.

A motion was made, seconded and carried unanimously to approved the draft Final Order.

**Action taken:** Final Order approved

**Petition for Waiver/Variance:**  
**Panhandle Orthopaedics, LLC RE: Rule 64B8-9.009(3)b(b)1, FAC .....47**

Michael Gilmore, M.D. was not present; however, he was presented by Mark Thomas, Esquire.

Mr. Tellechea clarified Mr. Thomas was seeking a petition for waiver or variance on behalf of Dr. Gilmore not the facility.

A motion was made and seconded to deny the petition for waiver or variance.

Mr. Thomas withdrew the petition.

**Action taken:** petition withdrawn

**Florida Board of Medicine**

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**November 30, 2012**

**MEETING MINUTES**

**Committee Reports:**

**Probation Committee Meeting**

Dr. Thomas provided the report for the meeting held November 29, 2012.

A motion was made, seconded and carried unanimously to accept the report.

**Action taken:** report accepted.

The Board thanked Dr. Rosenberg for serving as Chairman in 2012.

The meeting adjourned at 3:18 p.m.